

**A RESOLUTION BY
CITY UTILITIES COMMITTEE**

13- R -0186

A RESOLUTION AUTHORIZING THE MAYOR, OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH HEALEY WEATHERHOLTZ PROPERTIES, LLC, OWNER OF REAL PROPERTY LOCATED AT 3400 AROUND LENOX DRIVE N.E., ATLANTA, GEORGIA FOR THE PURPOSE OF PERMITTING DUMPSTER ENCLOSURES WHICH WILL PARTIALLY EXTEND INTO THE RIGHT-OF-WAY FOR AN APPROXIMATE TOTAL OF SEVENTY FIVE SQUARE FEET; AND FOR OTHER PURPOSES.

WHEREAS, Healey Weatherholtz Properties, LLC (“the Owner”) owns real property located at 3400 Around Lenox Drive, N.E. in Atlanta, Georgia (“Property”); and

WHEREAS, the Owner proposes to install dumpster enclosures which will extend into the public right-of-way approximately Seventy Five (75) square feet; and

WHEREAS, the City of Atlanta’s (“City”) Code of Ordinances, at Section 138-22 and 138-24, requires that an Encroachment Agreement be entered into between the City and the Owner for authorization to allow the dumpster enclosures to be installed in the public right-of-way and;

WHEREAS, the Commissioner of the Department of Public Works has reviewed the plans for the right-of-way encroachments and has determined that the dumpster enclosures will not adversely impact the ability of the affected right-of-way to handle vehicular or pedestrian traffic or otherwise to perform its intended public function; and

WHEREAS, the Owner desires to maintain the dumpster enclosures; and

WHEREAS, the Owner has agreed to conform to the conditions set out in the City’s Code of Ordinances at Sections 138-22 and 138-24.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor or his designee is authorized, on behalf of the Department of Public Works, to enter into an Encroachment Agreement for Non-Conforming Uses, as outlined in Section 138, Article II, of the City’s Code of Ordinances with Healey Weatherholtz Properties, LLC for the purpose of granting the Owner the right to install and to obligate the Owner to thereafter maintain the dumpster enclosures in the public right-of-way at 3400 Around Lenox Drive, N.E. between Peachtree Road, N.E. and Lenox Road, N.E. in Atlanta, Georgia as depicted in Exhibit “A” attached hereto, in a form pursuant to conditions determined by the Commissioner of the Department of Public Works and the City Attorney, to be desirable, appropriate and in the best interest of the City of Atlanta for this transaction.

BE IT FURTHER RESOLVED, that the plans and specifications for said dumpster enclosures shall be submitted for the review and approval of the Commissioner of Public Works.

BE IT FURTHER RESOLVED, that the Owner shall indemnify the City for any damages to property within the public right-of-way resulting from the erection and maintenance of said dumpster enclosures.

BE IT FURTHER RESOLVED, that the Owner shall comply with the conditions set out at Sections 138-22 and 138-24 of the City's Code of Ordinances.

BE IT FURTHER RESOLVED, that the City Attorney is directed to prepare an Encroachment Agreement, acceptable as to form, for execution by the Mayor and the Owner.

BE IT FINALLY RESOLVED, that the Agreement shall not become binding upon the City, and the City shall incur neither obligation nor liability thereunder until the Agreement has been approved as to form by the City Attorney, executed by the Mayor, attested to by the Municipal Clerk and delivered to Healey Weatherholtz Properties, LLC.

Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Caption:

A RESOLUTION AUTHORIZING THE MAYOR, OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH HEALEY WEATHERHOLTZ PROPERTIES, LLC, OWNER OF REAL PROPERTY LOCATED AT 3400 AROUND LENOX DRIVE N.E., ATLANTA, GEORGIA FOR THE PURPOSE OF PERMITTING DUMPSTER ENCLOSURES WHICH WILL PARTIALLY EXTEND INTO THE RIGHT-OF-WAY FOR AN APPROXIMATE TOTAL OF SEVENTY FIVE SQUARE FEET; AND FOR OTHER PURPOSES.

Committee of Purview: City Utilities

Committee Meeting Date: February 12, 2013

Council Meeting Date: February 18, 2013

Requesting Dept.: Department of Public Works

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

The purpose of this legislation is to authorize an Encroachment Agreement for non-conforming use with Healey Weatherholtz Properties, LLC for dumpster enclosures which will extend into the public right-of-way approximately 75 square feet.

2. Please provide background information regarding this legislation.

Wooddale Drive (aka Around Lenox Drive) road dead ends into the Shops Around Lenox Shopping Center. To update and beautify, the shopping center has undergone renovations. The final stage of this renovation includes Building 300 which is located at the property line where it meets Wooddale Drive. The exterior renovation includes enclosing the dumpsters with painted block and gates. Because of the configuration of the building, property boundary line and Wooddale Drive, the dumpster enclosures will encroach into the public right-of-way approximately 75 square feet. This area is currently not drivable as the sidewalk area on the shopping center's property projects the same distance as the requested encroachment forming the entrance to the center. Wooddale Drive will not be impacted.

3. If Applicable/Known:

(a) Contract Type:

- (b) Source Selection:**
- (c) Bids/Proposals Due:**
- (d) Invitations Issued:**
- (e) Number of Bids:**
- (f) Proposals Received:**
- (g) Bidders/Proponents:**
- (h) Term of Contract:**

4. Fund Department Account Center:

5. Source of Funds:

6. Fiscal Impact: Application and Review Fee - \$1,300.00; ROW use fee (rental) - \$100.00 annually

7. Method of Cost Recovery: N/A

This Legislative Request Form Was Prepared By: Wahab Alabi



CITY OF ATLANTA

KASIM REED
MAYOR

68 MITCHELL STREET, S.W.
SUITE 4900, CITY HALL SOUTH
ATLANTA, GEORGIA 30303-3531
TEL. (404) 330-6501
FAX. (404) 658-7085
Email: publicworks@atlantaga.gov

DEPARTMENT OF PUBLIC WORKS
RICHARD MENDOZA
Commissioner

DEXTER C. WHITE
Deputy Commissioner

**Department of Public Works
Office of Transportation**

Information Checklist – Encroachment Agreements

In order for the Law Department to prepare encroachment agreements pursuant to legislation adopted by the City Council, the following information needs to be provided to the Law Department by the Department of Public Works

- ☐ 1. Scaled Engineering Drawings/Plan of the location on 8-1/2" X 11" Sheet (electronic)
- ☐ 2. Scaled Engineering Drawings of the encroachment e.g. monuments, awnings, etc. on 8-1/2" X 11" Sheet
- N/A ☒ 3. Structural Calculations with a Professional Engineer's stamp
- ☒ 4. Area and Volume calculation for the encroachment 75 SF
- N/A ☒ 5. Ordinance/Resolution number of legislation authorizing the project.

- ☐ 6. The date that DPW completed its review and approval of the plans and technical specifications for the project.

- ☒ 7. Owner of the Property Atlanta-Fulton County Stadium
3401 Atlantic Center Bldg SW Atlanta, GA 30326
- ☒ 8. Name and title of encroaching party official who will execute the agreement. This person must have legal authority to bind the encroaching party to the terms of the encroachment agreement
Name Mr. [illegible]
Title [illegible]
- ☒ 9. Full corporate name of encroaching party Atlanta-Fulton County Stadium LLC



10. Mailing address of encroaching party.

Healey Weatnornoltz Properties, LLC
3391 Peachtree St, NE - Suite 220
Atlanta, GA 30326



11. Name and telephone number of contact person for encroaching party.

Name Melissa Varnadoe
 Number (404) 237-7710



12. When applicable, the date that the Urban Design Commission completed its review and approval of the design and location of the project.



13. The amount of public liability insurance that will be required for this project (as determined by Risk Management. *(after approval)*)



14. Whether the encroachment is permanent or temporary

Permanent

If Temporary, the expected length of time the encroachment will be in place



15. Whether a performance/completion bond is required for this encroachment *(after approval)*

If a bond is required, the dollar amount that will be required for the bond:



16. Fees to be charged by DPW to the encroaching party – If none, indicate with a zero in the appropriate blank below:

a. Application and Review Fee: \$1,300.00

b. ROW use fee (rental): \$100.00 *none given if permanent*

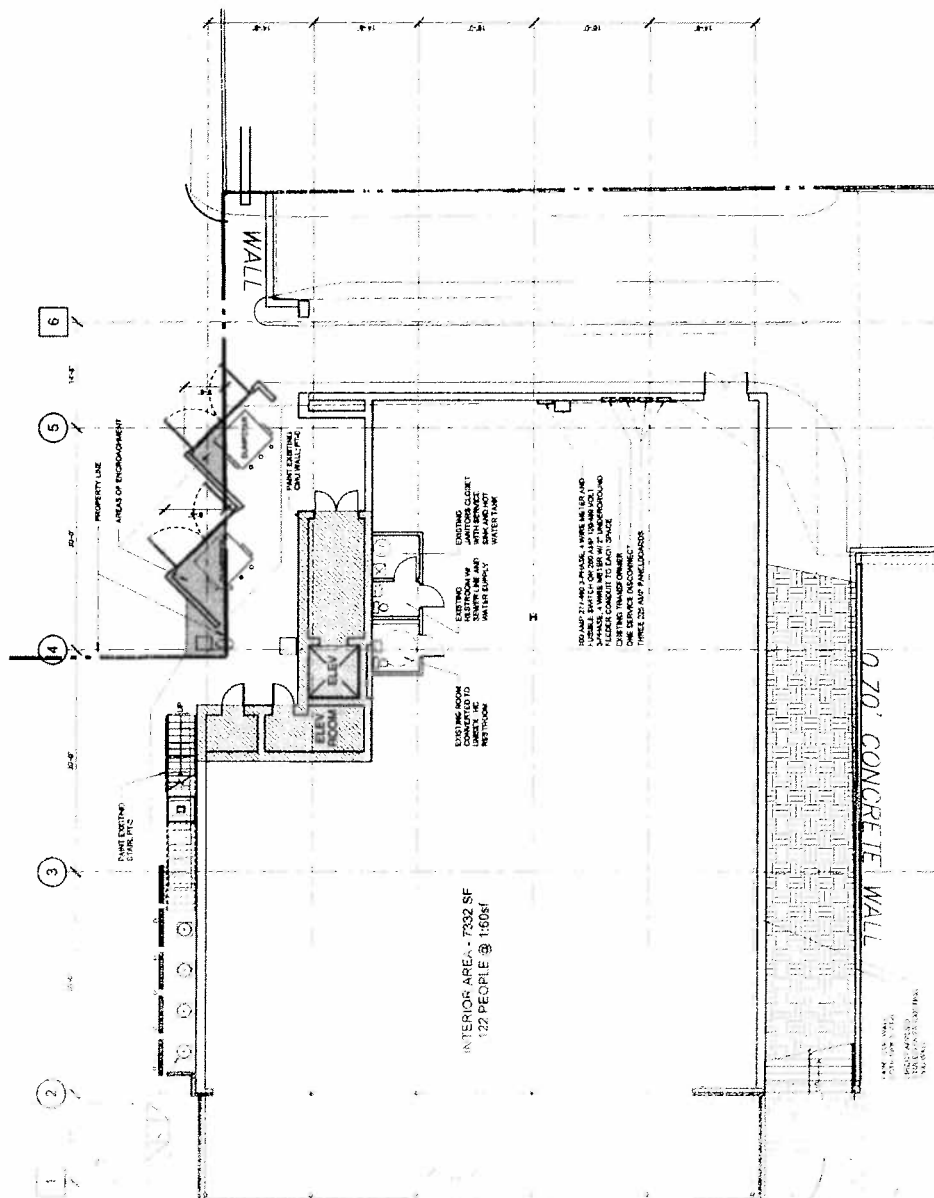
If the right-of-way use fee is to be imposed, please provide the basis upon which the fee has been determined:

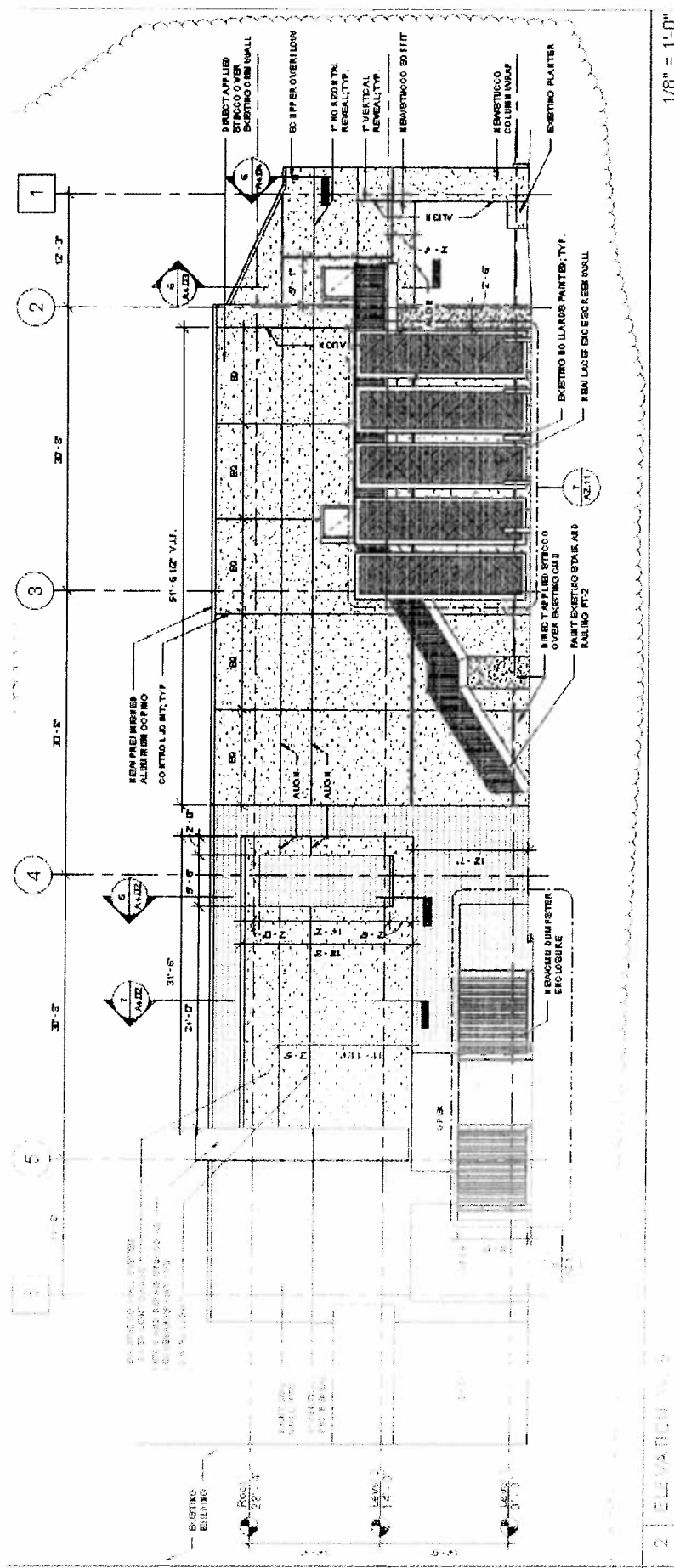
DPW contact: Wahab Alabi 404-330-6501



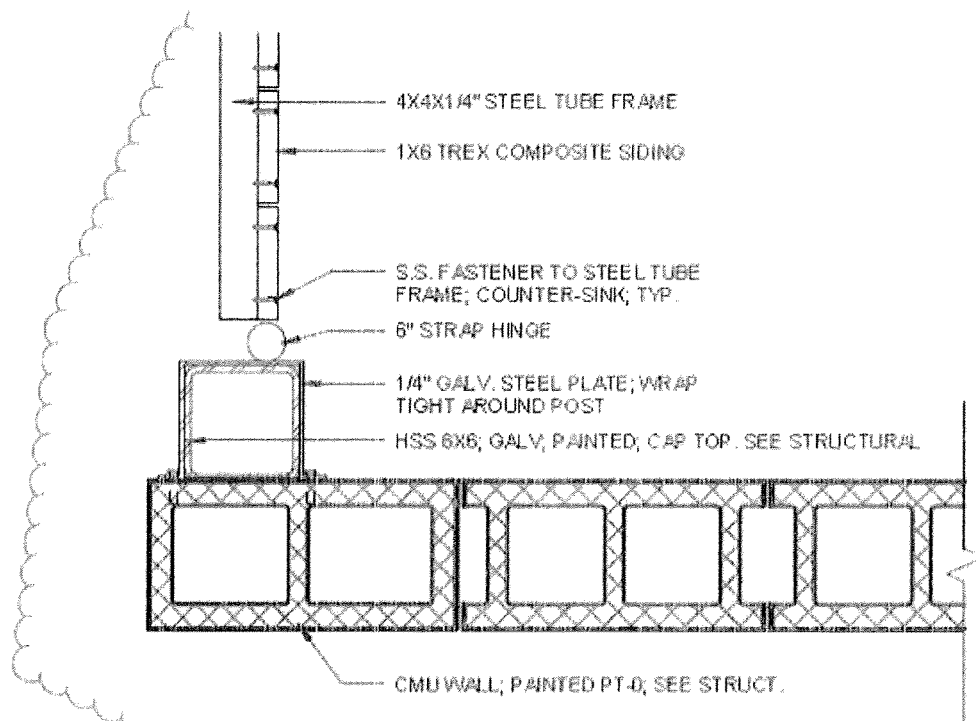
17. Project Brief Description - Include reason(s) for encroachment

Wooddale Drive (aka Around Lenox Drive) road ends into the Shops Around Lenox Shopping Center. To update and beautify, the shopping center has been undergoing renovations. The final stage of this renovation includes Building 300 which is located at the property line where it meets Wooddale Drive. The exterior renovation includes enclosing the dumpsters with painted block and gates. Because of the configuration of the building, property boundary line and Wooddale Drive, the dumpster enclosures will encroach 75 SF. This area is currently not drivable as the sidewalk area on the shopping center's property projects the same distance as the requested encroachment forming the entrance to the center. Therefore, travel on Wooddale Drive will not be impacted.









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DETAIL: DUMPSTER HINGE

1 1/2" = 1'-0"

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: CANDACE L. BYRD

Dept.'s Legislative Liaison: Santana Kempson Wright

Contact Number: (404) 330-6579

Originating Department: Department of Public Works

Committee(s) of Purview: City Utilities Committee

Chief of Staff Deadline: January 25, 2013

Anticipated Committee Meeting Date(s): February 12, 2013

Anticipated Full Council Date: February 18, 2013

Legislative Counsel's Signature: Saul Schultz

Commissioner's Signature: [Signature]

Chief Information Officer Signature (for IT Procurements) [Signature]

Chief Procurement Officer Signature: _____

CAPTION

A RESOLUTION AUTHORIZING THE MAYOR, OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH HEALEY WEATHERHOLTZ PROPERTIES, LLC, OWNER OF REAL PROPERTY LOCATED AT 3400 AROUND LENOX DRIVE N.E., ATLANTA, GEORGIA FOR THE PURPOSE OF PERMITTING DUMPSTER ENCLOSURES WHICH WILL PARTIALLY EXTEND INTO THE RIGHT-OF-WAY FOR AN APPROXIMATE TOTAL OF SEVENTY FIVE SQUARE FEET; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT:

Mayor's Staff Only

Received by CPO: _____
(date)

Received by LC from CPO: _____
(date)

Received by Mayor's Office: Adrian 1-25-13
(date)

Reviewed by: [Signature]
(date)

Submitted to Council: _____ (date)